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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,606	10/03/2003	Kenneth Rothmuller	07844-627001 / P580	6152
21876	7590	11/13/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. Box 1022 MINNEAPOLIS, MN 55440-1022			HARPER, LEON JONATHAN	
			ART UNIT	PAPER NUMBER
			2166	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,606	Applicant(s) ROTHMULLER, KENNETH	
	Examiner Leon J. Harper	Art Unit 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☒ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/30/2006</u> . | 6) ☐ Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed 8/30/2006 has been entered. Claims 7 and 17-18 have been canceled. Claims 1-5,8-16 and 19-21 have been amended. Claims 22-24 are new. Accordingly claims 1-6,8-16, 19-24 are pending in this office action.

Response to Arguments

Applicant's arguments with respect to claims 1-5,8-16,19-24 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8-16, 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20020140820 (hereinafter Bord) in view of US 20050050043 (hereinafter Py).

As for claim 1 Bord discloses: receiving a digital image associated with a specific time (See paragraph 0017); identifying a calendar entry (See paragraph 0017) comprising and if the corresponding time interval includes the specific time; automatically associating the calendar entry with the digital image (See paragraph 0017); and storing an association between the calendar entry and the digital image on a computer-readable medium(See paragraph 0017). While Bord does not differ substantially from the claimed invention the disclosure of a topic and a time interval, the topic representing an event, a person, a geographic location, a logical location, or an object; is not necessarily explicit. Py however does disclose a topic and a time interval, the topic representing an event, a person, a geographic location, a logical location, or an object; (See paragraph 0037). It would have been obvious to an artisan of ordinary skill in the pertinent art to have incorporated the teaching of Py into the system of Bord.

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The modification would have been obvious because Bord discloses further grouping or categorizing images into albums based on inter alia name and content (See Bord paragraph 0021). The disclosure of a topic and a time interval, the topic representing an event, a person, a geographic location, a logical location, or an object in Py can also be used to provide further division in Bord.

As for claim 2 Bord discloses: receiving a digital image associated with a specific time (See paragraph 0017); identifying a calendar entry comprising a first topic and a first time interval (See paragraph 0017), the first topic representing an event, a person, a geographic location, a logical location, or an object (See paragraphs 0017 and 0020), the first time interval identifying a second calendar entry comprising a second topic and a second time interval, the second topic representing an event, a person, a geographic location, a logical location, or an object, the second time interval overlapping with the first time interval and including the specific time; comparing the first topic with the second topic or the first time interval with the second time interval (See paragraph 0018 note: user selects date range all events or topics are show in that range), the comparison based on configurable rules; based upon the comparison, automatically selecting one the calendar entries to associate with the digital image (See paragraph 0017); and storing an association between the selected calendar entry and the digital image on a computer-readable medium (See paragraph 0017). While Bord does not differ substantially from the claimed invention the disclosure of an event, a person, a

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geographic location, a logical location, or an object is not necessarily explicit. Py however does disclose an event, a person, a geographic location, a logical location, or an object (See paragraph 0037). It would have been obvious to an artisan of ordinary skill in the pertinent art to have incorporated the teaching of Py into the system of Bord. The modification would have been obvious because Bord discloses further grouping or categorizing images into albums based on inter alia name and content (See Bord paragraph 0021). The disclosure of a topic and a time interval, the topic representing an event, a person, a geographic location, a logical location, or an object in Py can also be used to provide further division in Bord.

As for claim 3, the rejection of claim 2 is incorporated, and further Bord discloses: wherein each calendar entry further includes a note, the note including a classification for the topic represented by the calendar entry and the selecting is based on classification of the topics represented by the calendar entries (See paragraph 0008).

As for claim 5, the rejection of claim 1 is incorporated, and further Bord discloses: wherein the storing of the association includes tagging the digital image with an identifier of the calendar entry (See paragraph 0018).

As for claim 6, the rejection of claim 5 is incorporated, and further Py discloses wherein the digital image is stored in a file that includes a metadata field(See paragraph 0034); the calendar entry includes a label(See paragraph 0035 note: the subject of the image is a label); and the tagging includes storing the label in the metadata field (See paragraph 0035).

As for claim 8, the rejection of claim 5 is incorporated, and further Py discloses wherein the rules specify that when the topic of the calendar entry represents one of a person and a geographic location, confirmation is to be requested before associating the digital image with the identifier (See paragraph 0055)..

As for claim 9, the rejection of claim 1 is incorporated, and further Py discloses receiving an image grade definable by user input, the image grade specifying a level of interest for the digital image; and storing an association between the image grade and the digital image on the computer-readable medium (See paragraph 0041).

As for claim 10, the rejection of claim 9 is incorporated, and further discloses: receiving search criteria specifying a threshold grade; and searching the computer-readable medium for digital images that have grades exceeding the threshold grade.

As for claim 11, the rejection of claim 1 is incorporated, and further Py discloses: receiving an image grade definable by user input , the image grade specifying a level of

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quality for the digital image; associating the image grade with the digital image; and storing an association between the image grade and the digital image on the computer-readable medium (See paragraph 0041)..

As for claim 12, the rejection of claim 11 is incorporated, and further Bord discloses receiving search criteria specifying a threshold grade and searching the computer-readable medium for digital images that have grades exceeding the threshold grade (See paragraph 0035).

As for claim 13, the rejection of claim 1 is incorporated, and further Bord discloses: receiving one of a text file, audio file or video file and associating the text file, audio file or video file with the digital image (See paragraph 0027).

As for claim 14, the rejection of claim 1 is incorporated and further Py discloses: receiving search criteria that specify the calendar entry and searching for digital images associated with the calendar entry (See paragraph 0035).

As for claim 15, the rejection of claim 1 is incorporated, and further Bord discloses: presenting a link with the calendar entry, the link being configured to return any digital images associated with the calendar entry (See paragraph 0018).

As for claim 16, the rejection of claim 1 is incorporated, and further PY discloses: receiving user input specifying a topic; and storing the user input into the note field (See paragraph 0041).

Claims 21 and 22 are computer program product and system claims corresponding to the method of claim 1 and are thus rejected for the same reasons as set forth in the rejection of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19,20,23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Bord.

As for claim 19 Bord discloses: clustering images in an image library into groups, each image including a time stamp that indicates when the image was captured (See paragraph 0020), for each group, determining the number of images in the group and a time interval delimited by an earliest time stamp and a latest time stamp of images in the group; for each group (See paragraph 0021), determining a time scale for displaying

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the group, the determining being based on the number of images in the group and the time interval delimited by an earliest time stamp and a latest time stamp of images of the group; and when an image of a group is selected (See paragraph 0021), displaying other images of the group over a timeline having the time scale determined for displaying the group (See paragraph 0022).

As for claim 20, the rejection of claim 19 is incorporated, and further Bord discloses: wherein the timeline is a calendar (See paragraph 0023)

Claims 23 and 24 are computer program product and system claims corresponding to the method of claim 19 and are thus rejected for the same reasons as set forth in the rejection of claim 19.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leon J. Harper whose telephone number is 571-272-0759. The examiner can normally be reached on 7:30AM - 4:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

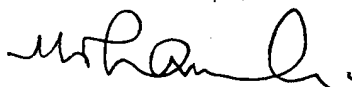
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LJH

Leon J. Harper

November 3, 2006



**MOHAMMAD ALI
PRIMARY EXAMINER**